

channel portion guiding the gathered food product toward the opening and toward the spherical portion of the scoop member.

8. (deleted)

9. An apparatus for dispensing food product from an end of a container including:

a scoop member mounted adjacent to the container end, said scoop member including a channel portion with a leading edge extending along one side of the channel portion, a trailing edge extending along the opposite side of the channel portion, said trailing edge extending outwardly further than said leading edge for engaging the food product in the container and directing it into and along the channel portion;

an opening through the scoop member adjacent one end of the channel portion;

means for rotating the container relative to the scoop member whereby the scoop member gathers food product from the container, the channel portion being tapered to force the gathered food product through and along the channel portion toward the opening in the scoop member; and

a device for [pushing] removing the food product [toward] from the opening in the scoop member as the [scoop] container is rotated relative to the [container] scoop member and food product is removed from the container.

10. An apparatus for removing frozen food products [such as ice cream and the like] from a container of said product comprising:

a support structure for holding the container with an open side of the container exposed, as product is removed therefrom,

a scoop assembly mounted adjacent to the open side of the container for movement relative thereto, said scoop assembly including an elongated member having a cavity formed on one side, said cavity extending between opposed side edges, one of which extends outwardly from the cavity further than the other, means for supporting said scoop assembly in position to have the more outwardly projecting side edge engage the

food product in the container such that movement of the scoop assembly relative to the container will cause food product in the container to move into the cavity and toward one end thereof, an opening in said cavity adjacent to said one end through which the food product can escape from the cavity, and

means to produce relative movement between the scoop assembly and the container.

11. The apparatus of claim 10 wherein the means for producing relative motion between [moving] the scoop assembly and [relative to] the container includes means to control the amount of food product that is scooped from the container each time relative movement is produced therebetween.

12. The apparatus of claim 10 wherein the container is a cylindrical container, one end of which is open to expose the food product contained therein, the scoop assembly being positioned adjacent to said exposed end of the container and extending substantially from the center of the exposed end to the edge thereof whereby the scoop assembly removes food product from the container in a circular path.

13. The apparatus of claim 10 wherein the cavity in the scoop assembly is curved in shape and one end of the cavity is deeper than the opposite end, and [an] said opening in said deep end through which the scraped food product passes when the scoop assembly and container are moved relatively to one another. [moves relative to the container.]

#### **REMARKS**

In the Office Action dated July 3, 2002, the Examiner rejected pending claims 1-13 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The examiner also rejected pending claims 1-13 under 35 U.S.C. 102(b) as being anticipated by the newly cited Whiteside U.S. Patent No. 1,638,134.